

Ordinance No: 16-32
Zoning Text Amendment No: 08-16
Concerning: Workforce Housing
- Findings
Draft No. & Date: 5 – 12/1/08
Introduced: July 29, 2008
Public Hearing: September 16, 2008
Adopted: January 13, 2009
Effective: February 2, 2009

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Councilmember Floreen

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- allow certain development plans or project plans to exceed density or building height limits to permit the construction of all Workforce Housing units on-site; and
- generally amend provisions relating to Development Plans and Project Plans.

By amending the following section of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-D-1	“DEVELOPMENT PLAN”
Section 59-D-1.6	“Approval by district council”
Section 59-D-1.61	“Findings”
DIVISION 59-D-2	“PROJECT PLAN FOR OPTIONAL METHOD OF DEVELOPMENT IN CBD, TOMX, TMX, AND RMX ZONES”
Section 59-D-2.4	“Action by planning board”
Section 59-D-2.42	“Findings required for approval”

EXPLANATION: ***Boldface** indicates a heading or a defined term.*
*Underlining indicates text that is added to existing laws
by the original text amendment.*
*[Single boldface brackets] indicate text that is deleted from
existing law by the original text amendment.*
*Double underlining indicates text that is added to the text
amendment by amendment.*
*[[Double boldface brackets]] indicate text that is deleted
from the text amendment by amendment.*
** * * indicates existing law unaffected by the text amendment.*

OPINION

Zoning Text Amendment (ZTA) 08-16 and Subdivision Regulation Amendment (SRA) 08-04, sponsored by Councilmember Floreen, were introduced on July 29, 2008. ZTA 08-16 would amend the Zoning Ordinance to change the development plan and project plan findings required for master plan or sector plan compliance. SRA 08-04 would similarly amend the Subdivision Regulations.

The Zoning Ordinance currently requires different findings to approve different applications: 1) a development plan must substantially comply with the density and building height recommendations of the relevant master plan or sector plan; and 2) a project plan must be consistent with the master plan or sector plan recommendations. The Subdivision Regulations currently require the Planning Board to make a finding that the subdivision application substantially conforms to the applicable master plan or sector plan. Under ZTA 08-16 and SRA 08-04, the flexibility to exceed the master plan or sector plan recommended density would be allowed to the extent required to accommodate workforce housing, but no more than 10 percent above the maximum residential density allowed by the project's zone. The flexibility to exceed the master plan or sector plan recommended building height would be allowed to the extent required to accommodate workforce housing, but no more than the maximum height allowed by the project's zone.

Flexibility for a project with workforce housing is currently allowed. Section 59-A-6.18.2(c) of the Zoning Ordinance follows:

To allow the construction of all workforce housing units on site, the Planning Board must permit:

- (1) any residential density or residential FAR limit of the applicable zone to be exceeded to the extent required for the number of workforce housing units that are constructed, but not by more than 10 percent;
- (2) any residential density or residential FAR limit established in a master or sector plan to be exceeded to the extent required for the number of workforce housing units that are constructed, but not to more than the maximum density and FAR of the zone, except as provided in paragraph (1); and
- (3) any building height limit established in a master or sector plan to be exceeded to the extent required for the number of workforce housing units that are constructed, but not to more than the maximum height of the zone.

The Council's commitment to workforce housing would be reinforced by the adoption of ZTA 08-16. ZTA 08-16 repeats the workforce housing provisions of §59-A-6.18. It would remove

any doubt about the application of its provisions to development plans, project plans, and subdivisions.

The Planning staff recommended approval of ZTA 08-16 and SRA 08-04 as introduced. On September 12, 2008 the Planning Board recommended approval of ZTA 08-16 and SRA 08-04 with amendments to closely mirror the language and format of §59-A-6.18.

The Council held a public hearing on ZTA 08-16 and SRA 08-04 on September 16, 2008. The Montgomery County Civic Federation testified in favor of ZTA 08-16 and SRA 08-04, with a minor amendment to reference §59-A-6.18 in addition to Chapter 25B.

The Planning, Housing, and Economic Development Committee held a worksession on December 1, 2008 to review the amendments. The Committee recommended approving ZTA 08-16 and SRA 08-04 with amendments to make the workforce housing provisions consistent throughout the Code and to reference the current provision for workforce housing. The Committee's recommendations reflected the recommendations of the Department of Housing and Community Affairs, the Planning Board, and the Civic Federation.

The District Council reviewed Zoning Text Amendment No. 08-16 at a worksession held on January 13, 2009, and agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 08-16 will be approved as amended.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Sec. 1. DIVISION 59-D-1 is amended as follows:

DIVISION 59-D-1. DEVELOPMENT PLAN.

* * *

59-D-1.6. Approval by district council.

59-D-1.61. Findings.

Before approving an application for classification in any of these zones, the District Council must consider whether the application, including the development plan, fulfills the purposes and requirements in Article 59-C for the zone. In so doing, the District Council must make the following specific findings, in addition to any other findings which may be necessary and appropriate to evaluate the proposed reclassification:

(a) The proposed development plan substantially complies with the use and density indicated by the master plan or sector plan, and does not conflict with the general plan, the county capital improvements program, or other applicable county plans and policies. However~~[[,]]~~:

~~[[1]]~~ (1) ~~[[to]]~~ To permit the construction of all MPDUs under Chapter 25A, including any bonus density units, on-site in zones with a maximum permitted density more than 39 dwelling units per acre or a residential FAR more than .9, a development plan may exceed:

~~[[1]]~~ (A) any dwelling unit per acre or FAR limit recommended in a master plan or sector plan, but must not exceed the maximum density of the zone; and

~~[[2]]~~ (B) any building height limit recommended in a master plan or sector plan, but must not exceed the maximum height of the zone.

The additional FAR and height allowed by this subsection is limited to the FAR and height necessary to accommodate the number of MPDUs built on site plus the number of bonus density units.

(2) To permit the construction of all workforce housing units required under §59-A-6.18 and Chapter 25B on-site, the District Council may permit:

[[the proposed development may exceed, in proportion to the workforce housing units to be built on site, any applicable residential density or building height limit established in a master plan or sector plan. Any residential density or residential FAR limit of the applicable zone may be exceeded to the extent required for the number of workforce housing units to be constructed, but not by more than 10 percent. Any building height limit recommended in a master or sector plan may be exceeded to the extent required for the number of workforce housing units that are constructed, but not to more than the maximum height of the zone.]]

(A) any residential density or residential FAR limit of the applicable zone to be exceeded to the extent required for the number of workforce housing units that are constructed, but not by more than 10 percent;

(B) any residential density or residential FAR limit recommended in a master or sector plan to be exceeded to the extent required for the number of workforce housing units that are constructed, but not to more than the maximum density and FAR of the zone, except as provided in paragraph (1); and

(C) any building height limit recommended in a master or sector plan to be exceeded to the extent required for the number of workforce housing units that are constructed, but not to more than the maximum height of the zone.

* * *

Sec. 2. DIVISION 59-D-2 is amended as follows:

DIVISION 59-D-2. PROJECT PLAN FOR OPTIONAL METHOD OF DEVELOPMENT IN CBD, TOMX, TMX, AND RMX ZONES.

* * *

59-D-2.4. Action by planning board.

* * *

59-D-2.42. Findings required for approval.

Although an application may comply with all of the specific requirements and intent of the applicable zone, it does not create a presumption that the application must be approved. The Planning Board may approve, or approve subject to modifications, an application only if it finds that:

- (a) It would comply with all of the intents and requirements of the zone.
- (b) The application would be consistent with the applicable sector plan or urban renewal plan. However:
 - (1) To permit the construction of all MPDUs under Chapter 25A, including any bonus density units, on-site in zones with a maximum permitted density more than 39 dwelling units per acre or a residential FAR more than .9, a project plan may exceed:

(A) any dwelling unit per acre or FAR limit recommended in a master plan or sector plan, but must not exceed the maximum density of the zone; and

(B) any building height limit recommended in a master plan or sector plan, but must not exceed the maximum height of the zone. The additional FAR and height allowed by this subsection is limited to the FAR and height necessary to accommodate the number of MPDUs built on site plus the number of bonus density units.

(2) To permit the construction of all workforce housing units required under §59-A-6.18 and Chapter 25B on-site, [[a project plan may exceed, in proportion to the workforce housing units to be built on site, any applicable residential density or building height limit established in a master plan or sector plan. Any residential density or residential FAR limit of the applicable zone may be exceeded to the extent required for the number of workforce housing units to be constructed, but not by more than 10 percent. Any building height limit recommended in a master or sector plan may be exceeded to the extent required for the number of workforce housing units that are constructed, but not to more than the maximum height of the zone.]]
the Planning Board must permit:

(A) any residential density or residential FAR limit of the applicable zone to be exceeded to the extent required for the number of workforce housing units that are constructed, but not by more than 10 percent;

(B) any residential density or residential FAR limit recommended in a master or sector plan to be exceeded to the extent required for the number of workforce housing units that are constructed, but not to more than the maximum density and FAR of the zone, except as provided in paragraph (1); and

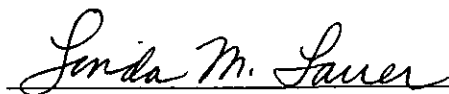
(C) any building height limit recommended in a master or sector plan to be exceeded to the extent required for the number of workforce housing units that are constructed, but not to more than the maximum height of the zone.

(3) An optional method of development project need not conform to the applicable sector plan's or urban renewal plan's recommendation to provide a mid-block pedestrian path on private property if the applicable plan does not recommend the continuation of the mid-block pedestrian path on confronting private property across a road right-of-way, or if the applicable plan recommends that the mid-block pedestrian path cross a major highway.

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Sec. 3. Effective date. This ordinance takes effect 20 days after the date of Council adoption.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council